

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>RAE Investment Inc., Hughes Development, Inc.,</b> Appellant,  <b>v.</b>  <b>Delaware County Board of Review,</b> Appellee.	<b>ORDER</b>  <b>Docket No. 13-28-0446</b> <b>Parcel No. 250-23-04-013-10</b>  <b>Docket No. 13-28-0447</b> <b>Parcel No. 250-23-04-013-50</b>  <b>Docket No. 13-28-0448</b> <b>Parcel No. 250-23-04-013-40</b>  <b>Docket No. 13-28-0449</b> <b>Parcel No. 250-23-04-013-11</b>
--	--

On July 18, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney James W. Affeldt is counsel for RAE Investment Inc., Hughes Development Inc. Delaware County Attorney John Bernau is counsel for the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Evan Hughes, President of RAE Investment and Hughes Development (RAE), are the owners of four unimproved, residential sites located at 20570, 20552, 20550, and 20572 254th Street, Delhi, Iowa. Each site is 0.443 acres and located in the Maple Condominium Resort Development. The properties are located on Lake Delhi, which was a man-made lake in Delaware County. In July 2010, flooding caused the Lake's earthen dam to burst and the lake drained. The breach caused damage to many properties, and properties that had water views now have none.

The January 1, 2013, assessment of each site was \$20,000. RAE protested the assessments to the Delaware County Board of Review on the ground that they were assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). It asserted the correct fair market value of each parcel was \$8000. It also asserted an error in the assessment under section 441.37(1)(a)(3), but this claim essentially reasserted the properties were over assessed. The Board of Review denied the protests. RAE then appealed to this Board.

RAE submitted eleven photos showing the view from the subject sites since the dam burst. (Exhibit 1). The fact that the views have changed dramatically from the lake draining is not disputed. After the lake drained, surrounding property assessments were reduced dramatically to reflect the loss of this amenity. Because the assessment has been largely dependent on the current lack of lake view, a history of the properties' assessments, which is the same for all of the parcels, is set forth below.

Assessment Year	Assessed Value
2010	\$55,900
2011	\$11,200
2012	\$8000
2013	\$20,000

Evan Hughes, President of RAE and a retired Realtor, explained that in 2011 the value of the properties adjacent to Lake Delhi were reduced 80% from the previous assessment to account for the dam breach. In 2012, Hughes provided evidence to the Board of Review that the value of the parcels prior to the breach (2010 value) was \$40,000, rather than the assessed value of \$55,900. As a result, the 2012 values were changed to reflect an 80% reduction of \$40,000, or \$8000 assessment. The 2013 assessments are consistent with this determination and reflect a unit value of \$40,000 but only received a 50% reduction in value, resulting in the \$20,000 assessed value.

Delaware County Assessor Andrea Schmidt reiterated Hughes explanation. Schmidt provided additional information regarding the 2013 assessment. Schmidt explained the adjustment for the dam

breach and lack of waterfront view was changed to 50% based on sales in the Lake District. (Exhibit B). She found the data indicated a 20% increase was required to the Lake District properties to reflect market actions, which was accomplished by adjusting the land values. (Exhibit E). Essentially, the 2012 sale prices in the Lake District indicated a reduction in the stigma due to the breach.

Hughes provided additional explanation regarding the subject parcels' location in the newest development on Lake Delhi. The Maples consists of eight building "sites" with the remainder being common area. (Exhibit I). The Maples will have eight duplex style properties and a total of sixteen improved units. Only twelve are complete and the most recent building was constructed in 2010, prior to the breach.

When cross-examined, Hughes acknowledged the building site identified on Exhibit I with the parcel numbers 401340 and 401350 is currently for sale with a listing price of \$80,000. The list price reflects a price of \$40,000 per duplex unit. Hughes explained the building site is marketed toward a developer who would build the duplex improvement based on development requirements, then sell both units. He further explained the list price was determined based on the sale price of the other improved lots in the subject development, which sold prior to the breach. When questioned by this Board if he had conducted a comparable analysis of the subject properties to determine a market value, Hughes testified that because there is no lake, there has been no interest shown by anyone in buying the parcels. Therefore, it was his conclusion the value was \$0. He did not provide this analysis or any other evidence to support this conclusion.

Finally, Hughes disagrees with the Assessor's reliance on sales data. (Exhibit B). He believes only nine of the properties are comparable to the subject parcels. He is also critical that all of the sales are improved.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hughes provided significant testimony about the Lake and the history of the subject development and was critical of the Assessor's analysis, but he did not provide any evidence of his

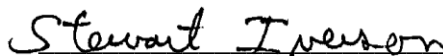
own to establish the fair market value of the subject properties as of January 1, 2013. For this reason, RAE Investment Inc., Hughes Development Inc. has failed to provide sufficient evidence to support its claims.

THE APPEAL BOARD ORDERS the 2013 assessments of the properties located at 20570, 20552, 20550, and 20572 254th Street, Delhi, Iowa, is affirmed.

Dated this 4th day of September, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

James W. Affeldt, Attorney  
316 2nd Street SE  
Suite 124  
Cedar Rapids, Iowa 52406  
APPELLANT

John Bernau  
Delaware County Attorney  
301 E Main Street  
Manchester, Iowa 52057  
ATTORNEY FOR APPELLEE